

Senate File 2246 - Introduced

SENATE FILE 2246
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3061)

A BILL FOR

1 An Act relating to remote testimony in civil and criminal court
2 proceedings.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 624.1, subsection 1, Code 2022, is
2 amended to read as follows:

3 1. All issues of fact in ~~ordinary~~ civil actions shall
4 be tried upon oral and other evidence taken in open court,
5 except that depositions may be used as provided by law. Oral
6 evidence taken in open court includes remote testimony of a
7 witness by telephone, videoconference, or other remote means of
8 communication approved by the court.

9 Sec. 2. NEW SECTION. **624.2A Remote testimony.**

10 1. If all parties and the parties' attorneys request
11 that noncontested court proceedings in civil actions be
12 held by videoconference, telephone, or other remote means of
13 communications approved by the court, the court shall grant the
14 request if appropriate technology is available.

15 2. If all parties and the parties' attorneys request that
16 jury and nonjury trials, or other contested court proceedings
17 in civil actions, be held by videoconference, telephone, or
18 other remote means of communications approved by the court,
19 the court may grant the request if appropriate technology is
20 available.

21 Sec. 3. NEW SECTION. **801.6 Remote testimony.**

22 1. If all parties and the parties' attorneys request
23 that noncontested criminal court proceedings be held by
24 videoconference, telephone, or other remote means of
25 communications approved by the court, the court shall grant the
26 request if appropriate technology is available.

27 2. If all parties and the parties' attorneys request that
28 jury and nonjury criminal trials, or other contested court
29 proceedings be held by videoconference, telephone, or other
30 remote means of communications approved by the court, the court
31 may grant the request if appropriate technology is available.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill authorizes the use of remote testimony in civil

1 trials, noncontested criminal proceedings, and contested
2 criminal proceedings in certain circumstances. Under current
3 law, all testimony needs to be taken in open court, except for
4 depositions. The bill, in part, is a response to the supreme
5 court of Iowa's decision in *In re Estate of Rutter*, 633 N.W.2d
6 740 (Iowa 2001). The bill is also, in part, a response to
7 the supreme court of Iowa's decision in *State v. Rogerson*,
8 855 N.W.2d 495 (Iowa 2014), where the court held that remote
9 testimony of a witness in a criminal proceeding would violate
10 the Sixth Amendment's confrontation clause.

11 The bill provides that oral evidence taken in open court
12 includes remote testimony of a witness.

13 The bill establishes that remote testimony requests in
14 noncontested civil and criminal court proceedings shall be
15 granted by the court if appropriate technology is available.
16 In contested civil and criminal proceedings, the court may
17 grant the request for remote testimony if the appropriate
18 technology is available and all parties consent.